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Intellectual Property Law
Patents • Trademarks
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Computer Law • Biotechnology
Unfair Competition • Enforcement

16179 U.S. PTO
033104
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Attorney Docket No. T9376.DIV2DIV

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March 31, 2004

Mail Stop Patent Application
Commissioner for Patents
P.O. Box 1450
Alexandria, Virginia 22313-1450

Dear Sir:

Transmitted herewith for filing under 37 C.F.R. § 1.53(b) is a patent application entitled
“Method of Implanting an Intervertebral Spacer,” comprising:

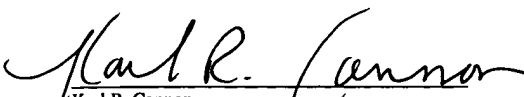
- X A continuing application as indicated below:
- _____ Continuation of prior application no. _____, filed
[date], which is hereby incorporated by reference in the enclosed
application in its entirety.
- _____ This continuation constitutes the enclosed true and complete copy of
said prior application, together with any instructions or amendments
provided herein or herewith.
- X Divisional of prior application no. 10/055,783, filed January 22, 2002, which
is a divisional of prior application no. 09/592,072, filed June 12, 2000, now
U.S. Patent No. 6,579,318, which are hereby incorporated by reference in the
enclosed application in their entireties.
- _____ This divisional constitutes the enclosed true and complete copy of
said prior application, together with any instructions or amendments
provided herein or herewith.
- _____ Continuation-in-part of prior application no. _____, filed
[date] which is hereby incorporated by reference in the enclosed
application in its entirety.

CERTIFICATE OF MAILING BY EXPRESS MAIL LABEL NO. EV 442106825 US

Mailed: March 31, 2004

I hereby certify that this correspondence, and all enclosures indicated, are being deposited with the United States Postal Service "Express Mail Post Office to Addressee" service on the date indicated above in an envelope addressed to: Mail Stop Patent Application, Commissioner for Patents, P. O. Box 1450, Alexandria, Virginia 22313-1450.

Respectfully submitted,


Karl R. Cannon
Attorney Registration No. 36,468
Attorney for Applicant

22388 U.S. PTO
10/814389
033104

☐ A patent application claiming the benefit of U.S. Provisional Application No. **/**, filed **[date]**, which is hereby incorporated by reference in the enclosed application in its entirety.

☒ Twenty-eight (28) pages of specification, claims and abstract.

☒ Four (4) sheets of ☒ formal/ ☐ informal drawings.

☒ Declaration, Power of Attorney and Petition.

☐ Newly Executed

☒ Copy from prior application (when a continuation or divisional) (37 C.F.R. § 1.63(d))

☐ Associate or Substitute Power of Attorney

☐ Microfiche Computer Program (Appendix)

☐ Nucleotide and/or Amino Acid Sequence Submission

☐ Computer Readable Copy

☐ Paper Copy (identical to computer readable copy)

☐ Statement verifying identity of above referenced copies

Also enclosed are:

☒ An Assignment from Peter Pal Varga, M.D. and James W. Ogilvie, M.D. to Ortho Development Corporation(including assignment cover sheet)

☒ An Information Disclosure Statement under 37 C.F.R. §1.97 accompanied by a Form PTO-1449.

☐ A Preliminary Amendment, and the fee calculation set forth below is based upon the claims as constituted by said amendment.

☒ A return receipt postcard under MPEP § 503, indicating specially itemized enclosures.

☐ A Certificate Under 37 C.F.R. §3.73(b) to Establish Right of Assignee to Take Action.

☒ A Certificate of Express Mailing certifying a filing date of March 31, 2004, by use of Express Mail Label No. EV 442106825 US.

- ☐ A Declaration Claiming Small Entity Status for ***[independent inventor, etc.]***, under 37 C.F.R. §§ 1.9 and 1.27.
- ☐ A paper entitled "Establishment of Small Entity Status" under 37 C.F.R. § 1.28(a), along with a copy of the declaration claiming small entity status under 37 C.F.R. §§ 1.9 and 1.27 filed in the prior application.
- ☐ Certified copy of priority document(s) (if foreign priority is claimed).
- ☐ A Nonpublication Request Under 35 U.S.C. 122(b)(2)(B)(i). ***[Ask Atty]**
- ☐ A copy of the extension of time simultaneously filed in the prior application.

Instructions and Averments:

- ☐ Incorporation by Reference (if a copy of the declaration from prior application is included). The entire disclosure of the prior application, from which a copy of the declaration is supplied herewith as referenced above, is considered as being part of the disclosure of the accompanying application and is hereby incorporated by reference therein.
- ☒ A Declaration Claiming Small Entity Status was filed in a prior application and such status is still proper and desired.
- ☐ Cancel in this application original claims _____ of the prior application before calculating the filing fee.
- ☐ Pursuant to 37 C.F.R. § 1.78(a)(2), please amend the specification as follows:

[Attorney to fill in here if this is needed]

FEES

- ☐ No Fees are enclosed.
- ☒ Check No. 7452 in the amount of \$425.00 which represents the filing fee for this application.

The fees have been calculated as set forth below.

| PATENT APPLICATION FEE CALCULATION TABLE | | | | | | | |
|---|-----------|-----------|--------------|--------|----|--------------|--------|
| | | | SMALL ENTITY | | | LARGE ENTITY | |
| | NO. FILED | NO. EXTRA | RATE | FEE | OR | RATE | FEE |
| BASIC FEE | | | | \$ 385 | OR | | \$ 770 |
| TOTAL CLAIMS | 3 - 20 = | 0 | X 9 = | \$ - | OR | X 18 = | \$ |
| IND. CLAIMS | 2 - 03 = | 0 | X 43 = | \$ - | OR | X 86 = | \$ |
| Presentation of Multiple Dependent Claims | | | + 145 = | \$ - | OR | + 290 = | \$ |
| ASSIGNMENT RECORDATION FEE () | | | + 40 = | \$ 40 | OR | + 40 = | \$ |
| | | | TOTAL: | \$ 425 | OR | TOTAL: | \$ |

The Commissioner is hereby authorized to charge payment of the following fees associated with this communication, if indicated by a marking below in the blank line corresponding to said fees, or credit any overpayment, to Deposit Account No. 50-0836.

___ An original and one copy of this letter are enclosed.

X Any additional filing fees required under 37 C.F.R. § 1.16.

___ Any patent application processing fees under 37 C.F.R. § 1.17.

The Commissioner is hereby authorized to charge payment of the following fees during the pendency of this application, if indicated by a marking below in the blank line corresponding to said fees, or credit any overpayment, to Deposit Account No. 50-0836.

X Any patent application processing fees under 37 C.F.R. § 1.17.

___ The issue fee set forth in 37 C.F.R. § 1.18 at or before mailing of the Notice of Allowance, pursuant to 37 C.F.R. § 1.311(b).

X Any filing fees under 37 C.F.R. § 1.16 for presentation of extra claims.

CORRESPONDENCE ADDRESS

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Customer No. 20449

X Please direct all future telecommunications to:

Karl R. Cannon
Clayton, Howarth & Cannon, P.C.
Telephone: (801) 255-5335
Facsimile: (801) 255-5338

X Please refer to the following attorney docket number in all future correspondence and telecommunications:

T9376.DIV2DIV

Dated this 31 day of March, 2004.

Respectfully submitted,



Karl R. Cannon
Attorney Registration No. 36,468
Attorney for Applicant

Clayton, Howarth & Cannon, P.C.
P.O. Box 1909
Sandy, Utah 84091

KRC/kdl
Enclosures